IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 1872 of 2005

Between:

Tajuddin, E. 800551, Driver, Kalwakurthy Depot, s/o Khaja Hussain
R/o Kalwakurthy, Mahaboobnagar District

..... PETITIONER

AND

1 The APSRTC rep by its Regional Manager, Mahaboobnagar Region at Mahaboobnagar
2 The APSRTC rep by Depot manager, Kalwakurthy, Mahaboobnagar District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate Writ order or direction, declaring the action of the respondents herein imposing the punishment of deferment of annual increment for a period of 2 years with cumulative effect without holding any departmental enquiry vide proc. No. 01/2(1)/2003-Kalwakurthy, dt 19-04-2003, as illegal, unjust contrary to well established principles of law and as such liable to be set a side the by further directing the respondents to re-fix the pay of the petitioner by adding the deferred increment w.e.f. 19-4-2003 and to pay the arrears forthwith.

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondents: MR.P.VINAYAKA SWAMY, S.C for APSRTC

The Court made the following :

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ORAL ORDER:

The petitioner is working as a Driver in the respondents-Corporation. He was issued a charge memo on 10.3.2003. After receiving the explanation of the petitioner, the 2nd respondent passed final orders on 19.4.2003 imposing penalty of withholding incremental stages for a period of two years with cumulative effect. The petitioner questioned the order on the ground that though the reduction of annual increments with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the Rules. Therefore, the order is illegal and liable to be set aside.

The learned counsel for the petitioner relied on a judgment of the Supreme Court in ***KULWANT SINGH GILL Vs. STATE OF PUNJAB*** wherein the Apex Court held that since the punishment imposed on the petitioner is a major punishment, the impugned order cannot be sustained without there being any enquiry. The petitioner, therefore, seeks to declare the order as illegal.

The petitioner, after receiving the adverse orders, slept over the matter for a period of nearly two years. There are latches on his part in asserting his right regarding this issue. Though the impugned order

is liable to be set aside on account of lapse of time, but in view of the judgment of the Supreme Court in **Kulwant Singh Gill's** case (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of one annual increment without cumulative effect. The petitioner is not entitled to the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order as he had not been imposed penalty of reduction of two annual increments without cumulative effect.

The writ petition is disposed of in terms of the above direction. In the circumstances of the case, there shall be no order as to costs.

(K.C. BHANU, J.)

8th February, 2005.

bcj

To

1 The Regional Manager, APSRTC, Mahaboobnagar Region at Mahaboobnagar
2 The Depot Manager, APSRTC, Kalwakurthy, Mahaboobnagar District

3. Two C.D. copies.